

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION**

**KENESHA BARNES, ON BEHALF  
OF THE ESTATE OF SHERRIE  
BARNES,**

**PLAINTIFF,**

**VS.**

**CIVIL ACTION NO. 3:03CV60-P-D**

**KOPPERS, INC., F/K/A KOPPERS  
INDUSTRIES, INC.; BEAZER EAST, INC;  
ILLINOIS CENTRAL RAILROAD  
COMPANY,**

**DEFENDANTS.**

**RULINGS ON OBJECTIONS TO DEPOSITION DESIGNATIONS**

These matters come before the court upon the parties' objections to deposition designations. Upon due consideration of same, the court **ORDERS AND ADJUDGES** that:

**ANTHONY FOSTER**

17:23-25 - (S)ustained

37:18 to 38:3 - S

49:13-18 - S

52:25 to 53:17 - (O)verruled

53:13-17 - O

53:18-21 - S

62:18-21 - S

62:24 to 63:6 - S

65:24 to 66:3 - S

95:1-8 - S

96:1-15 - S

96:16-20 - S

96:21 to 97:1 - S

245:19 to 246:8 - S

**D.L. DAVIES**

The court reserves rulings upon the three deposition excerpts of D.L. Davies pending an argument as to why this 1994 testimony for a case in Pennsylvania is relevant and admissible.

**DR. DAVID HUNTER PHILLIPS**

The court sustains the defendants objections to all of Dr. Phillips's testimony; no expert report filed and therefore pursuant to FRCP 26 and FRE 702, the testimony is inadmissible.

**STEPHEN TRUMAN SMITH (3/8/05)**

22:2-17 - S - concerns California plant, not Grenada plant

22:22-24 - S

23:1-20 - S

24:3-8 - S

31:2-16 - O

37:16 -24 - O

38:1-2 and 38:5-7 - O

45:6-12 - S

46:1-13 - S

46:1-13 - S

49:9 to 50:2 - O

108:17-19 - O

122:7-19 - S

134:3-5 - O

138:3-7 - S

139:1 to 140:10 - S

141:3-7, 141:10-22 - S

144:14-17, 144:22 to 145:1 and 9-11 - O

150:11-15 - O

162:7-16 - S

185:7-22 - O; goes to corporate knowledge of environmental standards of care

188:16-24 - S

190:9-17 - S

**STEPHEN TRUMAN SMITH (3/15/05)**

280:1-12 - S

327:3-23 - S

33:1 to 331:20 - O

335:16 to 337:14 - O

337:24 to 339:24 - O345:12-24 - S

352:19 to 420:16 - S - not tendered as an expert to critique Cheremisinoff's report

421:9-15 - S

422:16 to 423:18 - O

425:1-4 - S

426:1-23 - O

427:1-24 - S

502:1 to 503:24 - S

506:7 to 507:24 - S

508:1 to 509:7 - O

514:5-11 - S

514:12 to 517:24 - O

518:11 to 519:7 - S

521:17 to 525:24 - O - involves Smith's own report done in the court of his employment

526:1-23 - O

### **MICHAEL BOLLINGER**

The court sustains Koppers/Beazer's objection to any testimony regarding activities at the Grenada plant and other plants after the date of Sherrie Barnes's death in 1998. Likewise, the court sustains the plaintiff's objection to designations by defendants regarding post-1998 practices.

17:1-6 - O

18:3 to 21:13 - S; does not concentrate on corporate knowledge of environmental standards of care but rather on contamination at other plants.

27:2 to 38:25 - S; same

39:6-13 - S

54:6-11 - O

55:11 to 56:25 - S; post-1998

58:1 to 59:4 - S; post-1998

61:10 to 62:13 - S; post-1998

68:7-20 - O

71:15-25 - O; not offered to prove the truth of the matter asserted

76:25 to 77:16 - O

81:5-14 - S

95:12-14 - O

104:3 to 105:18 - S

105:20 to 106:3 - S

106:4 to 114:2 - S

117 to 121 - O; basis unknown

123:11 to 124:22 - S

137:12-18 - O

139:4-12 - S

143:5 to 145:5 - S

150:10 to 151:2 - O

151:12-15 - O

151:25 - 152:4 - O

154:23 to 156:8 - S

156:9 to 158: 3 - O

158:3-13 - O

158:14 to 159:11 - O

162:1-13 - O

163:6-25 - O

165:6-18 - O

166:1 to 167:1 - O

167:5 to 170:2 - O

170:24 to 171:21 - O

172:7-18 - O

173:3-25 - S

174:1 to 175:2 - O

175:6-20 - S

176:2-16 - S

178:1 to 183:2 - O

183:19 to 185:1 - S

**JILL BLUNDON**  
**RAY OHLIS**  
**JD “ROCK” CLAYTON**  
**THOMAS HENDERSON**  
**RANDALL COLLINS**

Rulings dependent upon trial development – *i.e.*, whether these witnesses testify at trial

**RICHARD ANTHONY VERKLER**

Verkler is listed on ICR’s may-call list. Thus, if he testifies at trial, the deposition may not be used except to impeach.

9:1-2 - O

9:3-15 - O

21:10-15 - O

22:9-18 - S

40:24 to 41:3 - O

57:13-21 - O

58:7-14 - O

58:7-14 - S

66:4-15 - S

68:2-22 - S

77:1-3 - S

77:12-15 - O

78:3 to 79:3 - O

79:9-14 - S

80:7-14 - O

82:5-8 - S

83:7-9 - O

95:6-18 - O

96:2-9 - S

97:5-23 - O

98:20 to 100:6 - O

100:17-20 - O

101:11 to 102:1 - O

119:13 to 120:4 - S

123:5 to 125:3 - S

**WILLIE CLYDE SPENCER**

8:17 to 9:2 - O

9:8-9 - S

9:25-26 - S

14:1-7 - S

17:4-20 - O

19:13-17 - O

21:15-25 - S; groundwater evidence previously excluded

22:1-14 - S; same

23:14-25 - S; same

28:18-25 - S

29:5-10 - O

29:16-18 - S

29:19-21 - O

32:6-25 - S

45:2-15 - O

46:19-22 - O

47:3-6 - O

**TIMOTHY R. BASILONE**

Because Basilone did not work for Koppers until 1999, a year after Sherrie Barnes's death, the court will reserve rulings on this deposition pending argument as to relevance.



**MICHAEL B. SYLVESTER**

27:5-6 - O

38:14-20 - S

39:4-23 - S

40:23 to 42:15 - S

75:16-20 - S

78:17-20 - S

105:2-17 - S

110:24 to 111:11 - S

113:11-25 - O

116:9-17 - O

130:4-11 - S

155:11 to 156:9 - S

156:12-22 - O

187:7 to 188:3 - S

**PATRICIA MCNEAL**

None of the designations in Ms. McNeal's deposition are admissible; see orders regarding barrel burning and groundwater.

**DAVID HILL**

Court reserves ruling on these designations pending arguments as to why these designations are relevant.

The parties are instructed to edit any video depositions in compliance with this order immediately so as not to delay trial proceedings in any manner.

**SO ORDERED**, this the 14<sup>th</sup> day of April, A.D., 2006.

/s/ W. Allen Pepper, Jr.

W. ALLEN PEPPER, JR.

UNITED STATES DISTRICT JUDGE